

104TH CONGRESS
2D SESSION

S. 1707

To amend the Packers and Stockyards Act, 1921, to establish a trust for the benefit of the seller of livestock until the seller receives payment in full for the livestock, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 25, 1996

Mr. PRESSLER introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Packers and Stockyards Act, 1921, to establish a trust for the benefit of the seller of livestock until the seller receives payment in full for the livestock, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. LIVESTOCK DEALER TRUST.**

4 Title III of the Packers and Stockyards Act, 1921
5 (7 U.S.C. 201 et seq.), is amended by adding at the end
6 the following:

7 **“SEC. 318. LIVESTOCK DEALER TRUST.**

8 “(a) FINDINGS.—Congress finds that—

1 “(1) a burden on and obstruction to commerce
 2 in livestock is caused by financing arrangements
 3 under which dealers and market agencies purchasing
 4 livestock on commission encumber, give lenders secu-
 5 rity interests in, or have liens placed on livestock
 6 purchased by the dealers and market agencies in
 7 cash sales, or on receivables from or proceeds of the
 8 sales, when payment is not made for the livestock;
 9 and

10 “(2) the carrying out of the arrangements is
 11 contrary to the public interest.

12 “(b) PURPOSE.—The purpose of this section is to
 13 remedy the burden on and obstruction to commerce in live-
 14 stock described in paragraph (1) and protect the public
 15 interest.

16 “(c) DEFINITIONS.—In this section:

17 “(1) CASH SALE.—The term ‘cash sale’ means
 18 a sale in which the seller does not expressly extend
 19 credit to the buyer.

20 “(2) TRUST.—The term ‘trust’ means 1 or
 21 more assets of a buyer that (subsequent to a cash
 22 sale of livestock) constitutes the corpus of a trust
 23 held for the benefit of a seller and consists of—

24 “(A) account receivables and proceeds
 25 earned from the cash sale of livestock by a deal-

1 er or market agency buying on a commission
2 basis;

3 “(B) account receivables and proceeds of a
4 marketing agency earned on commission from
5 the cash sale of livestock;

6 “(C) the inventory of the dealer or market-
7 ing agency; or

8 “(D) livestock involved in the cash sale, if
9 the seller has not received payment in full for
10 the livestock and a bona fide third-party pur-
11 chaser has not purchased the livestock from the
12 dealer or marketing agency.

13 “(d) HOLDING IN TRUST.—

14 “(1) IN GENERAL.—The account receivables
15 and proceeds generated in a cash sale made by a
16 dealer or a market agency on commission and the
17 inventory of the dealer or market agency shall be
18 held by the dealer or market agency in trust for the
19 benefit of the seller of the livestock until the seller
20 receives payment in full for the livestock.

21 “(2) EXEMPTION.—Paragraph (1) does not
22 apply in the case of a cash sale made by a dealer
23 or market agency if the total amount of cash sales
24 made by the dealer or market agency during the pre-
25 ceding 12 months does not exceed \$250,000.

1 “(3) DISHONOR OF INSTRUMENT OF PAY-
 2 MENT.—A payment in a sale described in paragraph
 3 (1) shall not be considered to be made if the instru-
 4 ment by which payment is made is dishonored.

5 “(4) LOSS OF BENEFIT OF TRUST.—If an in-
 6 strument by which payment is made in a sale de-
 7 scribed in paragraph (1) is dishonored, the seller
 8 shall lose the benefit of the trust under paragraph
 9 (1) on the earlier of—

10 “(A) the date that is 15 business days
 11 after date on which the seller receives notice of
 12 the dishonor; or

13 “(B) the date that is 30 days after the
 14 final date for making payment under section
 15 409,

16 unless the seller gives written notice to the dealer or
 17 market agency of the seller’s intention to preserve
 18 the trust and submits a copy of the notice to the
 19 Secretary.

20 “(5) RIGHTS OF THIRD-PARTY PURCHASER.—
 21 The trust established under paragraph (1) shall have
 22 no effect on the rights of a bona fide third-party
 23 purchaser of the livestock, without regard to whether
 24 the livestock are delivered to the bona fide pur-
 25 chaser.

1 “(e) JURISDICTION.—The district courts of the Unit-
2 ed States shall have jurisdiction in a civil action—

3 “(1) by the beneficiary of a trust described in
4 subsection (c)(1), to enforce payment of the amount
5 held in trust; and

6 “(2) by the Secretary, to prevent and restrain
7 dissipation of a trust described in subsection
8 (c)(1).”.

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